

**FILED****DEC 11 2018**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In the Matter of the Search of:

**UNDER SEAL**MAGISTRATE JUDGE SUSAN E. COX  
UNITED STATES DISTRICT COURT

ERNESTO GODINEZ

Case Number: 18 CR 278

**APPLICATION AND AFFIDAVIT FOR A SEARCH WARRANT**

I, Beau M. Jacobsen, a Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person:

ERNESTO GODINEZ

(a Hispanic male, approximately 5 feet 7 inches tall, weighing approximately 200 pounds,  
born on or about May 9, 1990)

located in the Northern District of Illinois, there is now concealed:

**BUCCAL SWAB**

The basis for the search under Fed. R. Crim. P. 41(c) is evidence.

The search is related to a violation of:

*Code Section*

Title 18, United States Code, Sections 111(a) and (b)

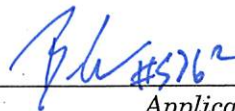
*Offense Description*

Forcible assault of and interference with person designated in Title 18, United States Code, Section 1114, while they were engaged in the performance of their official duties, and in the commission of such acts used a deadly and dangerous weapon

The application is based on these facts:

**See Attached Affidavit,**

Continued on the attached sheet.

*Applicant's Signature*

BEAU M. JACOBSEN, Special Agent, Bureau of Alcohol,  
Tobacco, Firearms, and Explosives

*Printed name and title*

Sworn to before me and signed in my presence.

Date: December 11, 2018*Judge's signature*City and State: Chicago, Illinois

SUSAN E. COX, U.S. Magistrate Judge  
*Printed name and title*

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UNITED STATES DISTRICT COURT       )  
  )  
NORTHERN DISTRICT OF ILLINOIS       )

**AFFIDAVIT**

I, Beau M. Jacobsen, being duly sworn, state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives, and have been so employed since in or around March 2014. Prior to this, I was a police officer with the Aurora and Lakewood Police Departments in Colorado. I am currently assigned to Group VI of ATF's Chicago Field Division and my current responsibilities include the investigation of firearms trafficking, illegal firearms possession, and narcotics trafficking.

2. As part of my regular duties as a Special Agent, I investigate criminal violations of the federal firearms laws, including Title 18, United States Code, Sections 922 and 924, as well as federal narcotics laws, including Title 21, United States Code, Sections 841(a)(1) and 846. I have received training regarding, among other things, violations of federal firearms and narcotics laws at the Federal Law Enforcement Training Center.

3. This affidavit is made in support of an application for a search warrant for samples of DNA contained within cheek cells/saliva (buccal swab) of ERNESTO GODINEZ.

4. The statements in this affidavit are based on my personal knowledge, and on information I have received from other law enforcement personnel and from persons with knowledge regarding relevant facts. Because this affidavit is being

submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are sufficient to obtain a search warrant for samples from ERNESTO GODINEZ to submit for DNA testing.

**I. FACTS SUPPORTING PROBABLE CAUSE TO SEARCH ERNESTO GODINEZ**

5. The person to be searched is ERNESTO GODINEZ, a Hispanic male, approximately 5 feet 7 inches tall, weighing approximately 200 pounds, born on or about May 9, 1990.

6. As described in further detail below, at approximately 3:18 a.m. on May 4, 2018, a plainclothes ATF agent was shot in the face while conducting a covert law enforcement operation in the area of 44<sup>th</sup> and Hermitage in Chicago. According to two different surveillance cameras near the scene, GODINEZ, who appeared to be wearing a dark colored hat, exited a house at 4345 S. Wood Street, Chicago, Illinois<sup>1</sup> (the "GODINEZ residence") at approximately 3:16 a.m., walked across the alley to an area on the 4300 block of Hermitage where shell casings were later recovered, and, at approximately 3:18 a.m., right after shots were detected in the area, GODINEZ ran back across the alley and back into the GODINEZ residence. A few minutes later, GODINEZ exited the GODINEZ residence, and at approximately 3:24 a.m., entered

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<sup>1</sup> Law enforcement identified 4345 S. Wood Street as the GODINEZ residence based on the following: (1) it is the address listed on GODINEZ's driver's license, according to Secretary of State records, (2) a 2018 Chicago police contact card for GODINEZ indicates that GODINEZ reported his residence as the GODINEZ residence, and (3) utility records list GODINEZ's mother as the name on the account for the GODINEZ residence.

the front passenger side of a dark colored sedan and left. At approximately 3:33 a.m., surveillance video from a gas station on the 3500 block of S. Ashland Ave., approximately 1.5 miles from the scene of the shooting, captured GODINEZ standing at the cashier's counter and wearing a black baseball cap with a White Sox logo.

7. On September 12, 2018, the grand jury returned a superseding indictment charging GODINEZ with one count of the forcible assault and interference with Bureau of Alcohol, Tobacco, Firearms, and Explosives Special Agent A, while Special Agent A was engaged in the performance of his/her official duties, in violation of Title 18, United States Code, Section 111(a) and (b), and one count of the use, carrying, and discharge of a firearm during the assault on Special Agent A, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

8. As explained below, as part of the ongoing investigation, law enforcement agents are in the process of examining a piece of physical evidence, namely a DNA swab conducted on the black baseball hat which GODINEZ was observed wearing shortly after the shooting.

9. A buccal swab is needed from GODINEZ so that testing may be done on any samples taken from the physical evidence recovered in this investigation, and compared to the specimen provided by GODINEZ. A buccal swab is a sterile cotton swab, which is used to collect cheek cells and/or saliva.

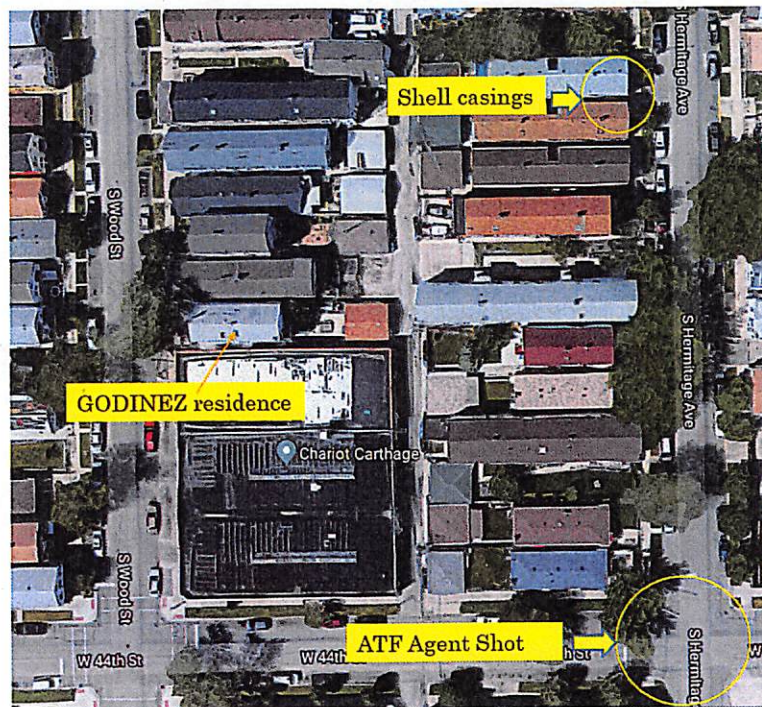
### **Background**

10. Early in the morning of May 4, 2018, undercover law enforcement agents were covertly replacing a court-approved tracking device on a vehicle on the 4400



block of South Hermitage when one of the ATF agents tasked with replacing the tracking device was walking southbound near the intersection of 44<sup>th</sup> and South Hermitage when, at 3:18 a.m., he was shot in the face.

11. There were at least three cameras that appear to have captured the events in the area of 44<sup>th</sup> and Hermitage at the time of the shooting: a law enforcement surveillance camera in the area of 44<sup>th</sup> and Wood, a private surveillance camera in the alley (shown in the map below) between the 4300 blocks of Wood and Hermitage, and a Police Observational Device or POD camera in the area of 4358 South Hermitage (the northwest corner of 44<sup>th</sup> and Hermitage). The footage is described in more detail below, and the map below shows the approximate locations of residences and/or areas discussed below:



12. On May 4, 2018, at approximately 2:59 a.m., according to law enforcement surveillance footage, a stocky male with what appears to be long hair (consistent with the description of GODINEZ), wearing dark shorts and a dark shirt<sup>2</sup> exited the GODINEZ residence and entered and sat in a white Kia SUV. Law enforcement conducting surveillance previously identified GODINEZ driving a white Kia.<sup>3</sup> Based on my familiarity with the investigation, including the surveillance footage described above and below, I believe the individual in the dark shorts and dark shirt depicted in the footage is GODINEZ.

13. At approximately 3:14 a.m., according to law enforcement surveillance footage and based on my discussions with other law enforcement agents, an advance team of law enforcement drove north on S. Wood Street past the GODINEZ residence to make sure there were no civilians present and surveilled the area near 44<sup>th</sup> and Hermitage generally. Further, based on my discussions with other law enforcement agents, the advance team of law enforcement agents drove north down the 4300 block of S. Wood and then south on the 4300 block of S. Hermitage shortly before the covert operation to replace a court approved tracking device on a vehicle on the 4400 block of S. Hermitage began. According to law enforcement officers, the advance team

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<sup>2</sup> According to law enforcement surveillance footage, on May 3, 2018, at approximately 8:30 a.m. and again at 2:13 p.m., GODINEZ, whom law enforcement identified based on a comparison to prior booking photos, was wearing dark shorts and a dark t-shirt.

<sup>3</sup> According to law enforcement surveillance footage in the area of the GODINEZ residence, on or about March 27, 2018, at approximately 7:16 p.m., a man matching GODINEZ's description got into the driver's seat of a white Kia SUV in front of the GODINEZ residence and drove away.

agents did not see any civilians in the nearby vicinity of the vehicle on the 4400 block of S. Hermitage.

14. At approximately 3:15 a.m., according to law enforcement surveillance footage, GODINEZ ran north up Wood Street, and reentered the GODINEZ residence. About a minute later, at approximately 3:16 a.m., GODINEZ again left the GODINEZ residence and walked north on S. Wood Street a few houses before he turned east and headed down a gangway. At that point he was headed towards the alley (shown on the map above) between the 4300 blocks of Wood and Hermitage.

15. According to private security video footage in that same alley, GODINEZ walked east across the alley towards the 4300 block of S. Hermitage.<sup>4</sup>

16. At approximately 3:18 a.m., according to a Shot Spotter sensor array in the area of 4400 South Hermitage, a system used by law enforcement to identify the time and location of gun shots, and law enforcement at the scene, approximately seven shots were fired. At that time, an undercover ATF agent involved in the tracker replacement operation was on foot when he was shot in the face near the intersection of 44<sup>th</sup> and Hermitage (the south end of the 4300 Hermitage block).

17. According to law enforcement at the scene, five shell casings were found in the area of 4330 South Hermitage, which is east and across the alley from the

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<sup>4</sup> The time stamp on this private video footage is approximately 3:19 a.m., but based on my review of other surveillance footage and familiarity with this investigation, I believe the private security footage of GODINEZ continuing his eastbound walk from Wood to Hermitage is consistent the law enforcement surveillance footage described above.

GODINEZ residence. According to law enforcement, a bullet was recovered in a tree between the location where the ATF agent was shot and the location near 4330 South Hermitage where the shell casings were recovered, indicating that the shot that struck the ATF agent came from the direction of 4330 South Hermitage.

18. According to a police observational device or "POD" camera footage from 44<sup>th</sup> and Hermitage and based on law enforcement at the scene, it appears that law enforcement officers returned fire from near 44<sup>th</sup> and Hermitage.

19. According to the private security video in the alley between the 4300 block of S. Hermitage and the 4300 block of S. Wood, approximately a minute and a half after walking east across through the alley, GODINEZ ran west across the alley back towards the 4300 block of S. Wood Street. I believe the private security footage shows GODINEZ running westbound from Hermitage to Wood at approximately 3:18 a.m.

20. Moments later, at approximately 3:18 a.m., law enforcement surveillance footage shows GODINEZ running south down the 4300 block of S. Wood and back into the GODINEZ residence. As discussed above, I believe this footage shows GODINEZ after he emerged from the alley where he was running west away from the 4300 block of South Hermitage.

21. At approximately 3:22 a.m., law enforcement surveillance footage shows GODINEZ exiting the GODINEZ residence, wiping his face, and holding what appears to be a cellphone. At approximately 3:23 a.m., the footage shows GODINEZ



leaving the GODINEZ residence and walking north on Wood St. before disappearing out of view. At approximately 3:24 a.m., GODINEZ reappears on the footage and walked south towards the GODINEZ residence, where a dark colored vehicle picked up GODINEZ.

22. Throughout the time period described above, the law enforcement and private surveillance footage reviewed by law enforcement does not depict any civilians in the vicinity of the shooting other than the individual identified as GODINEZ. Likewise, prior to reacting to the shots fired, law enforcement agents in the vicinity of the operation did not see any other civilians.

#### **Recovery of the Black Baseball Hat**

23. On May 6, 2018, law enforcement interviewed Individual A, and Individual A stated that Individual A drove a black Ford sedan bearing Illinois registration "Q281469" to the GODINEZ residence on May 4, 2018 at approximately 3:30 a.m. and picked up GODINEZ. Individual A further stated that GODINEZ was wearing dark shorts and a dark shirt when he entered the black Ford sedan. Individual A additionally stated that they drove to a gas station on the 3500 block of S. Ashland Ave.

24. According to surveillance footage from the gas station on the 3500 block of S. Ashland, at approximately 3:32 a.m. on May 4, 2018, a dark four door Ford sedan pulled into the gas station, and GODINEZ, wearing dark shorts and a dark shirt, entered the gas station. Approximately one minute later, GODINEZ is seen in the


surveillance video, standing at the cashier's counter and wearing a black baseball cap with a White Sox logo.

25. On May 7, 2018, law enforcement executed a federal search warrant for a black Ford Sedan bearing Illinois registration "Q281469". During the search of the Ford sedan, law enforcement officers recovered a black baseball hat with a White Sox logo on the dashboard on the passenger side of the car. Law enforcement has recovered DNA samples from the black baseball hat.


## II. CONCLUSION

26. Based on the above information, I respectfully submit that there is probable cause to believe that the assault of a federal employee, in violation of Title 18, United States Code, Sections 111(a) and (b), has been committed, and that a buccal swab sample recovered from the person of ERNESTO GODINEZ will provide evidence concerning a violation of Title 18, United States Code, Sections 111(a) and (b). I therefore respectfully request that this Court issue a search warrant for a buccal swab sample to be recovered from the person of ERNESTO GODINEZ.

FURTHER AFFIANT SAYETH NOT.

  
Beau M. Jacobsen  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms,  
and Explosives

Subscribed and sworn  
before me this 11th day of December, 2018

  
Honorable SUSAN E. COX  
United States Magistrate Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In the Matter of the Search of:

**UNDER SEAL**

ERNESTO GODINEZ

Case Number: 18 CR 278

**SEARCH AND SEIZURE WARRANT**

To: Beau M. Jacobsen and any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Northern District of Illinois:

ERNESTO GODINEZ

(a Hispanic male, approximately 5 feet 7 inches tall, weighing approximately 200 pounds,  
born on or about May 9, 1990)

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal:


**BUCCAL SWAB**

**YOU ARE HEREBY COMMANDED** to execute this warrant on or before December 25, 2018 in the daytime (6:00 a.m. to 10:00 p.m.).

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the issuing United States Magistrate Judge.

Date and time issued: December 11, 2018 @ 11:35AM

  
\_\_\_\_\_  
Judge's signature

City and State: Chicago, Illinois

SUSAN E. COX, U.S. Magistrate Judge  
\_\_\_\_\_  
Printed name and title

**Return**

Case No:

Date and Time Warrant Executed:

Copy of Warrant and Inventory Left With:

Inventory made in the presence of:

Inventory of the property taken and name of any person(s) seized:

**Certification**

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Executing officer's signature*\_\_\_\_\_  
*Printed name and title*